



DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

[COE-2021-0006]

Eagle River From Bravo Bridge to Eagle Bay in Knik Arm, Richardson Training Area on Joint Base Elmendorf-Richardson, Alaska; Restricted Area

AGENCY: U.S. Army Corps of Engineers, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is amending its restricted area regulations to establish a restricted area within the Richardson Training Area on Joint Base Elmendorf-Richardson (JBER), at Eagle River. The restricted area is located in the area of navigable waters extending from the span of Bravo Bridge across Eagle River to the mouth of Eagle River at Knik Arm (Eagle River channel). Establishment of the restricted area will prevent all vessels, watercraft, and individuals from entering an active military range munitions impact area at all times, except for authorized vessels, watercraft, and individuals engaged in support of military training and management activities. The restricted area will avoid inadvertent entry into the impact area during live-fire weapons training, exposure to hazardous noise, and inadvertent encounters with unexploded ordnance.

DATES: Effective date: [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW-CO (David Olson), 441 G Street NW, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Division, at david.b.olson@usace.army.mil or 202-761-4922.

SUPPLEMENTARY INFORMATION: In response to a request by the United States Army Alaska (USARAK) G3/5/7 Training and Support Activity-Alaska (TSA-AK), and pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps is amending its restricted area regulations to establish a permanent restricted area in the Eagle River on JBER, Alaska. The restricted area will allow the USARAK Commander to prevent all vessels, watercraft, and individuals from entering the munitions impact area of an active military range (i.e., Richardson Training Area, JBER) at all times, except for authorized vessels, watercraft, and individuals engaged in support of military training and management activities. This restricted area is established as a precautionary measure to protect the public from inadvertently entering the impact area during live-fire weapons training, encountering hazardous noise in the vicinity of the impact area, and encountering unexploded ordnance.

The proposed rule was published in the Federal Register on January 21, 2022 (87 FR 3257). The regulations.gov docket number was COE-2021-0006.

Concurrently, the Alaska District issued a local public notice for the proposed restricted area. No comments were received in response to the proposed rule or the local public notice.

Procedural Requirements

a. Regulatory Planning and Review. This final rule is not a “significant regulatory action” under Executive Order 12866 (58 FR 51735, October 4, 1993) and it was not submitted to the Office of Management and Budget for review.

b. Review Under the Regulatory Flexibility Act. This final rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354). The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments).

The Corps certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. The restricted area is necessary to protect public safety. The restricted area will prevent all vessels, watercraft, and individuals from entering the munitions impact area of an activity military range at all times, except for authorized vessels, watercraft, and individuals engaged in support of military training and management activities. Small entities can continue to utilize navigable waters outside of the restricted area. The Corps has determined that the restricted area would have practically no economic impact on the public, any anticipated navigational hazard, or interference with existing waterway traffic. After considering the economic impacts of this restricted area regulation on small entities, I certify that this final rule would not have a significant impact on a substantial number of small entities.

c. Review Under the National Environmental Policy Act. An environmental assessment (EA) has been prepared for the establishment of this restricted area. The Corps has concluded that the establishment of the restricted area will not have a

significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement is not required. The final EA and Finding of No Significant Impact may be reviewed at the Alaska District Office, 2204 3rd Street, JBER, Alaska 99506.

d. Unfunded Mandates Act. This final rule does not impose an enforceable duty among the private sector and, therefore, it is not a Federal private sector mandate and it is not subject to the requirements of either Section 202 or Section 205 of the Unfunded Mandates Act. The Corps has also found under Section 203 of the Act that small governments will not be significantly and uniquely affected by this final rule.

e. Congressional Review Act. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The Corps will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the Federal Register. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons discussed in the preamble, the Corps amends 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Add § 334.1305 to read as follows:

§ 334.1305 Eagle River from Bravo Bridge to its mouth at Eagle Bay in Knik Arm, Richardson Training Area on Joint Base Elmendorf-Richardson, Alaska; restricted area.

(a) Restricted area. The restricted area consists of navigable waters within an area defined as beginning a point on shore at latitude 61°19'40.1" N, longitude 149°44'20.336" W; thence easterly to latitude 61°19'41.59" N, longitude 149°44'6.825" W; 3.06 nautical miles southerly along the river to latitude 61°18'40.13" N, longitude 149°41'16.12" W; thence southerly to latitude 61°18'38.404" N, to longitude 149°41'14.73" W. The datum for these coordinates is North American Datum of 1983 (NAD-83).

(b) The regulation. The restricted area is permanently closed for public use at all times. No persons, watercraft, or vessels shall enter or remain in the area except for those authorized by the enforcing agency.

(c) Enforcement. The regulations in this section will be enforced by the Commander, United States Army-Alaska.

Thomas P. Smith,
Chief, Operations and Regulatory Division.

